SINGAPORE REPORTS

SINGAPORE GOVERNMENT OFFICERS' CO-OPERATIVE HOUSING SOCIETY LTD. v. ACHUTHA MENON

[C.A. (Wee Chong Jin C.J., Kulasekaram and Chua JJ.) March 20, 1979]

[Singapore — Civil Appeal No. 48 of 1978]

Co-operative Societies, — Deposit paid by member for purchase of house and contributions — Failure of Society to build houses — Claim for refund by member on resignation — Refusal of society to refund despite admission of liability — Whether there was a "dispute" under s. 49(1) of the Co-operative Societies Act (Cap. 186).

This is an appeal from the decision of Choor Singh J. (see [1979] 1 M.L.J. 62) in which the learned judge held that the Society was liable to refund the sum of $3,614.74 to the member on his resignation from the Society. The member had paid the said sum to the Society for the purchase of a house at a co-operative garden which the Society had planned but failed to develop.

The sole question in the appeal was whether there was a dispute between the respondent, as a past member, and the society within the meaning of section 49(1) of the Co-operative Societies Act (Cap. 86) which reads as follows:

"49(1) If any dispute touching the business of a registered society arises —

(b) between a ... past member ... and the society ... such dispute shall be referred to the Registrar for decision."

Held: although the amount claimed by the member was not disputed, there was a dispute touching the business of the Society as to whether or not the Sociey was presently liable to repay the admitted amount. The action should therefore be stayed pending the decision of the Registrar of Co-operative Societies to whom the dispute had been referred.

CIVIL APPEAL.

S. Gunaseelan for the appellants.

T.P.B. Menon for the respondent.

Wee Chong Jin C.J. (delivering the judgment of the Court): In January 1968 the respondent, Achutha Menon, became a member of the Singapore Government Officers' Co-operative Housing Society Limited, a society registered under the Co-operative Societies Act (Cap. 186). The main object of the Society is to assist members to purchase and own their own houses. The respondent resigned his membership in January 1976 but while a member he had in April 1971 made a deposit with the Society of $2,300 for the purchase of a house on a piece of property which the Society was planning to develop. He had also, from time to time, paid contributions as a member to the Society totalling $1,314.74.

For reasons which it is unnecessary for us to inquire into, the Society failed to develop and build houses on its property and the respondent, on his resignation, demanded from the Society a refund of his deposit and contributions totalling $3,614.74. By a letter dated November 23, 1976 the Society admitted the amount of $3,614.74 as being due. However, the Society took the stand that the debt was not presently payable because, pursuant to the powers vested in it by rule 26(14) of its By-Laws, the Society's management committee had decided that deposits paid by past members would be refunded according to a scheme under which past members would be paid in the order in which they had resigned. This scheme was necessitated by an acute shortage of funds caused by an act of criminal breach of trust committed by one of the Society's employees involving a sum exceeding $160,000 and other heavy financial losses suffered by the Society over the years.

The respondent commenced proceedings in the District Court to recover the $3,614.74 as monies due and payable by the Society. The Society applied to stay or dismiss the action on the ground that there was a dispute within the meaning of section 49(1) of the Co-operative Societies Act which could only be adjudicated upon by the Registrar of Co-operative Societies as provided by that section. The application was dismissed by the District Court and on appeal to the High Court the decision of the District Judge was upheld. On appeal to this court we allowed the appeal and ordered that the action be stayed pending the decision of the Registrar. We now proceed to give our reasons.

The sole question before us was whether there was a dispute between the respondent, as a past member, and the Society within the meaning of section 49(1) of the Act. Section 49(1) reads as follows:—

"49. (1) If any dispute touching the business of a registered society arises —

(b) between a ... past member ... and the society ... such dispute shall be referred to the Registrar for decision."

The Society contended that there was a dispute touching the business of the Society within the meaning of section 49(1) of the Act between the respondent, a past member, and the Society. It is submitted that although the amount is not in dispute, there is a *bona fide* dispute between the parties touching the business of the Society in that the respondent says he is entitled to immediate repayment of that amount whereas the Society says that there is no present liability to repay that amount.

We accepted the contention of the Society. The respondent, on becoming a member of the Society was bound by the By-Laws of the Society. By-Law 26(14) empowers the Committee of Management to decide on the terms on which deposits may be received and withdrawals permitted. It was common ground that the Committee of Management had decided on a scheme for refunding to its past members their deposits. This scheme provided that past members would be repaid their deposits according to a priority list based on the dates on which they had resigned. The list prepared in accordance with this scheme, according to the Society, showed that at the date of the respondent's demand for repayment, the respondent was not next in line for repayment. Accordingly, although the amount claimed by the respondent is not disputed, there is a dispute touching the business of the Society as to whether or not the Society is presently liable to repay the admitted amount.

For all these reasons we were of the opinion that the appeal should be allowed and that the action in the District Court should be stayed pending the decision of the Registrar to whom the dispute had been referred.

Appeal allowed.

Solicitors: *S. Gunaseelan; Oehlers & Choa.*